

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0914-WQ-E **TCEQ ID:** RN105229702 **CASE NO.:** 33750**RESPONDENT NAME:** Nalle Custom Homes, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Nalle Custom Homes 260 La Reata Trail, 260 La Reata Trail, Smithville, Bastrop County</p> <p>TYPE OF OPERATION: Construction site for a single family housing development</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 10, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3048; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Owen Nalle, Director, Nalle Custom Homes, Inc., 103 West 1st Street, Elgin, Texas 78621 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 10, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 1, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WATER</p> <p>Failed to obtain authorization to discharge storm water associated with construction activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p>Total Assessed: \$750</p> <p>Total Deferred: \$150 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Nalle Custom Homes submitted a Notice of Intent on May 23, 2007.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES

Assigned

4-Jun-2007

PCW

12-Jun-2007

Screening

9-Jun-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Nalle Custom Homes, Inc.

Reg. Ent. Ref. No. RN105229702

Facility/Site Region 11-Austin

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33750

Docket No. 2007-0914-WQ-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator Heather Brister

EC's Team Enforcement Team 1

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0% Enhancement

Subtotals 2, 3, & 7 \$0

Notes

No change due to no previous compliance history.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5 \$250

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent submitted the Notice of Intent on May 23, 2007.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$4
Approx. Cost of Compliance \$2,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$750

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$750

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$750

DEFERRAL

20% Reduction

Adjustment -\$150

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$600

Screening Date 9-Jun-2007

Docket No. 2007-0914-WQ-E

PCW

Respondent Nalle Custom Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33750

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN105229702

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to no previous compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 9-Jun-2007		Docket No. 2007-0914-WQ-E		PCW	
Respondent Nalle Custom Homes, Inc.		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 33750		<i>PCW Revision May 25, 2007</i>			
Reg. Ent. Reference No. RN105229702					
Media [Statute] Water Quality					
Enf. Coordinator Heather Brister					
Violation Number		1			
Rule Cite(s)		30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c).			
Violation Description		Failed to obtain authorization to discharge storm water associated with construction activity, as documented during an investigation conducted on May 10, 2007.			
Base Penalty					\$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				Percent 0%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	x			Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events	1	13	Number of violation days
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<i>mark only one with an x</i>	daily		monthly	x	quarterly		semiannual		annual		single event	
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One monthly event is recommended from the date of the investigation (May 10, 2007) to the date of compliance (May 23, 2007).

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$4	Violation Final Penalty Total \$750
This violation Final Assessed Penalty (adjusted for limits) \$750	

Economic Benefit Worksheet

Respondent Nalle Custom Homes, Inc.

Case ID No. 33750

Reg. Ent. Reference No. RN105229702

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	10-May-2007	23-May-2007	0.0	\$4	n/a	\$4

Notes for DELAYED costs

The estimated cost of preparing and implementing a storm water pollution prevention plan and submittal of a notice of intent. Date required is the date of investigation and the final date is the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN602982498	Nalle Custom Homes, Inc.	Classification: AVERAGE	Rating: 2.75
Regulated Entity:	RN105229702	NALLE CUSTOM HOMES 260 LA REATA TRAIL	Classification:	Site Rating:
ID Number(s):				
Location:	260 LA REATA TRL, SMITHVILLE, BASTROP COUNT, TEXAS			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	June 09, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 09, 2002 to June 09, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:	Heather Brister	Phone:	512-239-1203
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Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|--|-----|
| A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. | N/A |
| B. Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. Chronic excessive emissions events. | N/A |
| D. The approval dates of investigations. (CCEDS Inv. Track. No.) | |
| 1 06/01/2007 (560960) | |
| E. Written notices of violations (NOV). (CCEDS Inv. Track. No.) | N/A |
| F. Environmental audits. | N/A |
| G. Type of environmental management systems (EMSs). | N/A |
| H. Voluntary on-site compliance assessment dates. | N/A |
| I. Participation in a voluntary pollution reduction program. | N/A |
| J. Early compliance. | N/A |

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NALLE CUSTOM HOMES, INC.
RN105229702**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0914-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Nalle Custom Homes, Inc. ("Nalle Custom Homes") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Nalle Custom Homes appear before the Commission and together stipulate that:

1. Nalle Custom Homes owns and operates a construction site for a single family housing development at 260 La Reata Trail in Smithville, Bastrop County, Texas (the "Site").
2. Nalle Custom Homes has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Nalle Custom Homes agree that the Commission has jurisdiction to enter this Agreed Order, and that Nalle Custom Homes is subject to the Commission's jurisdiction.
4. Nalle Custom Homes received notice of the violations alleged in Section II ("Allegations") on or about June 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Nalle Custom Homes of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nalle Custom Homes has paid Six Hundred Dollars (\$600) of the administrative penalty and One Hundred Fifty

Dollars (\$150) is deferred contingent upon Nalle Custom Homes' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Nalle Custom Homes fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Nalle Custom Homes to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Nalle Custom Homes have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Nalle Custom Homes submitted a Notice of Intent on May 23, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Nalle Custom Homes has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, Nalle Custom Homes is alleged to have failed to obtain authorization to discharge storm water associated with construction activity, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on May 10, 2007.

III. DENIALS

Nalle Custom Homes generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

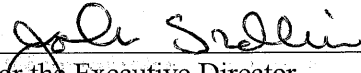
1. It is, therefore, ordered by the TCEQ that Nalle Custom Homes pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Nalle Custom Homes' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nalle Custom Homes, Inc., Docket No. 2007-0914-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Nalle Custom Homes. Nalle Custom Homes is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Nalle Custom Homes in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Nalle Custom Homes, or three days after the date on which the Commission mails notice of the Order to Nalle Custom Homes, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

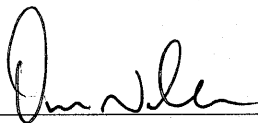
10/18/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

7/9/07
Date

Owen Nalle
Name (Printed or typed)
Authorized Representative of
Nalle Custom Homes, Inc.

operations
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

